HIGH COURT OF UTTARANCHAL AT NAINITAL.

(Court's order whether the case is or not approved for reporting)
(Chapter VIII Rule 32 (2)(b)

Description of the Case.

Writ Petition No. 1316 of 2004 (S/S)

Mohammad Aslam … Petitioner

Versus

Director General of Police (Uttaranchal)
District Dehradun & others …Respondents

Approved for reporting.

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Not approved for reporting.

Date of Decision 22nd June, 2005.

Initial of Judge.

IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Writ Petition No. 1316 of 2004 (S/S)

Mohammad Aslam S/o Sri Subedin
R/o Village Dhalipur, Police Station Vikas Nagar
District Dehradun …Petitioners

Versus

1. Director General of Police (Uttaranchal)
   District Dehradun
2. Senior Superintendent of Police
   District Dehradun
3. State of Uttaranchal through
   Secretary Home
   Uttaranchal Shashan
   District Dehradun …Respondents

Sri Sharad Sharma, learned counsel for the petitioners
Sri Paresh Tripathi, learned standing counsel for the respondents

Hon'ble B.C. Kandpal, J.:

By way of the writ petition, the petitioner has sought for a writ of mandamus commanding the respondents to permit the petitioner to participate in the training for the post of constable for which he stood selected.

Brief facts giving rise to the petition are that the petitioner is a person belonging to the category of an O.B.C. and after passing his intermediate examination he applied for the post of constable in Police Department. As per the averment made in the petition, his name figured amongst the list of selected candidates in the category of O.B.C. at Si. No. 13 and he accordingly joined his training course.

The petitioner has further averred that all of a sudden the training of the petitioner was vehemently stopped w.e.f. 24.04.2002 and the reason was shown that the petitioner had filed a wrong affidavit stating therein that no criminal case was pending against him.

The petitioner filed a writ petition before this Court, which was dismissed. Thereafter, the petitioner filed the Special Leave Petition

before the Hon’ble Supreme Court which was also decided vide order dated 10.07.2002.

The petitioner thereafter, in compliance with the direction issued by the Hon’ble Apex Court filed a representation before the respondents, but his representation was rejected by the respondents, hence he has again approached this Court by way of the present writ petition.

Counter and rejoinder affidavit have been exchanged. The respondents in the counter affidavit have stated that after the selection process completed, the affidavits regarding no criminal case from the selected candidate was required. In this regard, the petitioner filed the affidavit and has given the wrong information therein, therefore, his selection was cancelled.

Heard learned counsel for the parties and perused the record.

The perusal of the record reveal that the petitioner has filed the writ petition before the Division Bench of this Court and the same was dismissed on 24.04.2002. This Court did not find any valid reason to interfere with the action of the respondents.

The petitioner thereafter filed the Special Leave Petition before the Hon’ble Supreme Court and it reveals that during that period he was however, acquitted from the charges of criminal case leveled against him. The Hon’ble Apex Court thereafter directed the petitioner to make appropriate representation to the concerned authorities for the said purpose. The petitioner, therefore, withdraw the petition and the Special Leave Petition was dismissed as withdrawn.

However, in compliance of the order passed by the Hon’ble Apex Court, the petitioner moved a representation before the respondents who have dismissed the same.

It appears to me that the respondents have taken this aspect very seriously that there was a concealment of the material fact in the affidavit filed by the petitioner and the petitioner had deliberately concealed this fact that the criminal case was pending against him.

It would be pertinent to quote the affidavit on 27.03.2002 filed by the petitioner before the respondents:-

''भापथ–पत्र का प्रारूप

मैं अभ्यर्थी मोहम्मद असलम पुत्र श्री मोहम्मद सुबेदीन निवासी ठालीपुर पो0ओ0 ठालीपुर थाना विकास नगर जिला देहरादून शपथपूर्वक बयान करता हूँ किः–

1. *यह कि मैं भारत का नागरिक हूँ।* ***हॉ***
2. *यह कि मैं किसी राष्ट्र विरोधी दल/ संगठन का कभी सदस्य नहीं रहा हूँ और न हॅ।* ***हॉ***
3. *यह कि मैं कभी भी विध्वंसक कार्यों (सबबर्सित एक्अीविटीस) में भाग नहीं लिया था।* ***हॉ***
4. *यह कि मेरे विरूद्व कोई आपराधिक मुकदमा/ मामला हस्तक्षेपीय अथवा अहस्तक्षेपीय मेरी जानकारी में न कभी पंजीकृत हुआ है और न ही कभी किसी ऐसे अपराधिक मामलों में पुलिस ने चालान किया है तथा न ही मेरे विरूद्व कोई पुलिस विवेचना (पुलिस इन्वेस्टीग्रेषन) लम्बित है।* ***हॉ***
5. *यह कि कभी मुझे आपराधिक मामले (हस्तक्षेपीय अथवा अहस्तक्षेपीय) में गिरफतार नहीं किया गया है और न ही मैंने कभी किसी ऐसे अपराधिक मामले में न्यायालय में आत्मसमर्पण किया है।* ***हॉ***
6. *यह कि अपराधिक मामले जो मेरे विरूद्व पंजीकृत हुए हैं या जिनमें मेरा चालान किया गया था जो मेरे विरूद्व विचाराधीन न्यायालय अथवा विवेचनाधी पुलिस हो उनका विवरण निम्नवत् है यदि सूचना भून्य हो तो भून्य भाब्द अंकित किया जाय।* ***(षून्य)***
7. *यह कि अपराधिक मामले जो मेरे विरूद्व न्यायालय में चले और जिनमें दण्डित हुआ/ दोषमुक्त हुआ/ डिस्चार्ज हुआ उनका विवरण निम्नवत् है। यदि सूचना भून्य हो तो भून्य भाब्द अंकित किया जाय।* ***शून्य***
8. *यह कि मैं किसी आपराधिक मामले में धारा–169 दण्ड प्रक्रिया संहिता के अन्तर्गत कभी रिहा नहीं हुआ हूँ अथवा जिनमें रिहा हुआ हूँ उनका विवरण निम्नवत् है।यदि सूचना भून्य हो तो भून्य भाब्द अंकित किया जाय।* ***शून्य***
9. *यह कि मैं भारत सरकार/ राज्य सरकार/ सार्वजनिक संस्थान (पब्लिक इन्टर प्राइजेज) व अन्डर टंकिगं संस्थान द्वारा उनकी सेवा से कभी सेवा विमुक्त (डिसमिस) नहीं किया गया हूँ।* ***हॉ***

10. *यह कि आवेदन–पत्र में भौक्षिक योग्यता और जन्म तिथि सम्बन्धी प्रमाण–पत्र एवं आयु में छुट व आरक्षण का लाभ प्राप्त करने सम्बन्धी प्रमाण–पत्र जो मेरे द्वारा संलग्न किये गये हैं पूर्णतया सही है।*

सही है।

11. *यह कि आवेदन पत्र में उल्लिखित यदि कोई बात असत्य पायी जाय अथवा किसी सत्य को छिपाया गया हो तो बिना भार्त उत्तरांचल पुलिस से तुरन्त पृथक कर दिया जाय तथा वैधानिक दण्ड दिया जाय जो मुझे मान्य होगा।* ***हॉ***

12. *यह कि मैंने भर्ती केन्द्र देहरादून (भती केन्द्र का नाम) के अतिरिक्त अन्य किसी भर्ती केन्द्र पुरुष कान्स0 की इस भर्ती हेतु आवेदन–पत्र जमा नहीं किया है। यदि यह कथन असत्य पाया जाय तो मुझे बिना भार्त उत्तरांचल पुलिस से तुरन्त पृथक कर दिया जाय तथा वैधानिक दण्ड दिया जाय जो मुझे मान्य होगा।* ***मान्य है।***

13(क) *यह कि मैं अविवाहित /* ***हॉ***

(ख) *यह कि मैं विवाहित हूॅ तथा एक से अधिक जीवित पत्नी है।*

(ग) *यह कि मैं विवाहित हूॅ तथा एक से अधिक जीवित पत्नी है।*

14. *यह कि यदि भापथ–पत्र में अंकित तथ्य गलत पाये जाये तो भर्ती के लिए मेरा कोई दावा नहीं होगा और यदि भर्ती के लिए मेरा कोई दावा नहीं होगा और यदि भर्ती के बाद भी भविष्य में कोई तथ्य गलत पाये जाये तो मुझे बिना भार्त उत्तरांचल पुलिस से पृथक कर दिया जाय तथा वैधानिक दण्ड दिया जाय जो मुझे मान्य होगा।* ***मान्य होगा।***

ह0 मो0 असलम

अभिसाक्षी/भापथकर्ता

15. *यह कि मैं <u>मोहम्मद असलम</u> पुत्र श्री <u>मोहम्मद सुबेदीन</u> भापथपूर्वक सत्यापित करता हूॅ कि इस भापथ–पत्र के प्रस्तर–1 से 14 तक मैं उल्लिखित तथ्य मेरी व्यक्तिगत जानकारी में तथा वि वास में सत्य है इनका कोई भी अंष असत्य व गलत नहीं है तथा कोई भी महत्वपूर्ण तथ्य छिपाया नहीं गया है और सभी प्रस्तर पर अपेक्षित सूचना अंकित की है। अस्तु ईष्वर मेरी रक्षा करें।*

ह0 मो0 असलम

अभिसाक्षी/ भापथकर्ता''

The perusal of the affidavit dated 27.03.2002 filed by the petitioner shows that in paragraph 4, 5, 6, 7 and 8, he has furnished the wrong

information. The petitioner has also mentioned in paragraph 11 that in case as to if this affidavit is found false or if it is found that any material fact has been concealed, then the petitioner be removed from the police force without imposing any condition and whatever the legal punishment would be provided to him that will be accepted by him.

The petitioner has further averred in his affidavit at para-14 that in case, if the facts mentioned in the affidavit are found to be false then he will not claim anything for his selection and in future also if these facts are found to be false, the petitioner should be terminated form the service from the police force and whatever the punishment would be provided that shall be accepted by the petitioner. Therefore, this fact was very much in the knowledge of the petitioner that a case was pending against him and in case, if he conceals this fact, he will be liable for legal consequences and he would be also terminated from the service even after his training is completed.

Filing of the wrong affidavit is a penal offence and it appears to me that the petitioner has deliberately concealed the material facts for which his representation has been rightly rejected by the respondents. I do not find any valid reason to interfere with the action of the respondents.

The petition thus lacks merit in it and there is no scope of issuing any direction in the nature of mandamus commanding the respondents to allow the petitioner for participation in the training for the post of constable for which he stood selected.

With the aforesaid observations, the writ petition is dismissed.

(B.C. Kandpal, J.)

22.06.2005
ASWAL